

Information regarding the manufacturing machinery and equipment exemption may be found at 86 Ill. Adm. Code 130.330. (This is a GIL.)

February 10, 2006

Dear Xxxxx:

This letter is in response to your letter dated September 9, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We are assisting our client, Company X, with reviewing and updating their sales tax taxability guidelines. We are in need of a written opinion from your state to confirm the current treatment of the following transactions on the basis of the fact pattern provided.

Fact Pattern:

Company X is headquartered in the state of Illinois. Company X provides the services listed below for customers who purchase equipment from a related separate entity, Company Y. All services are separately stated on the customer's invoice. All services are optional, however, the customer may risk ineligibility of their general warranty with Company Y if they elect to perform start-up or training services internally (or through another provider) and implement the start-up process incorrectly. Company X is a technical service company and does not sell any tangible products. All services sold by Company X are separately quoted and invoiced from any equipment sold to the same customer by Company Y. Services are provided at the customer(s) site.

Company X's customers are comprised of manufacturers and steel service centers. For those services provided which relate to manufacturing equipment, does your state allow a manufacturing exemption, provided Company X obtains and maintains proper customer exemption documentation.

	<u>Subject to Sales Tax</u> (assuming no Mfg <u>exemption</u>)		<u>Mfg Exemption</u> (if qualifying eqmt)
	Yes	No	Available
Equipment Installation	_____	_____	_____
Equipment Start-up Services	_____	_____	_____
Training	_____	_____	_____
Maintenance Agreement	_____	_____	_____
Service Repair Request	_____	_____	_____

The services provided above include 'labor-only.' Any tangible products (i.e. parts, training manuals, etc.) required in conjunction with the above services are sold to the customer by Company Y or provided by the manufacturer (Company Y) pursuant to general warranty provisions (i.e. no charge to the customer).

We appreciate your assistance with this inquiry. Please include a copy or reference to any applicable statutes or regulations with your response. Do not hesitate to contact me with any questions.

DEPARTMENT'S RESPONSE:

Information regarding the manufacturing machinery and equipment exemption may be found at 86 Ill. Adm. Code 130.330. In Illinois, when a seller engages in the business of selling tangible personal property at retail, and such tangible personal property is installed by the retailer, the receipts from such installation charges must be included in the gross receipts upon which his Retailers' Occupation Tax liability is measured if such installation charges are included in the selling price of the property being sold. If, however, the seller and buyer agree upon the installation charges separately from the selling price of the tangible personal property, which is sold, then the receipts from the installation charges are not a part of the "selling price" of the tangible personal property, which is sold. Instead, such charges constitute a service charge, separately contracted for, which need not be included in the figure upon which the seller computes his or her Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.450.

If the installation is to permanently affix the tangible personal property to real estate, however, the retailer is acting as a construction contractor and he incurs a Use Tax liability only on his cost price of materials. See 86 Ill. Adm. Code 130.1940 and 130.2075.

Training session providers incur Retailers' Occupation Tax on the gross receipts from sales in Illinois of seminar or training materials such as workbooks and reference materials that are transferred in a tangible format, such as written materials or computer disks. The tax base is the selling price of the materials. The sales of these materials are subject to Retailers' Occupation Tax whether the materials are sold separately or as a part of the total tuition charge for the training seminar. If the materials are sold as part of the total tuition charge, the providers must allocate the amount for the selling price of the materials and charge tax on that amount.

For information on the tax liabilities of maintenance agreements please see 86 Ill. Adm. Code 140.301(b)(3) and Department letter ruling ST 02-0117-GIL. You may find helpful information upon review of the Department's "Sunshine Letter" rulings which address many of the issues raised in your request. General information "Sunshine Letters" may be found on the Department's internet website under the heading of "Laws/Regs/Rulings."

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk